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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,173	03/16/2004	Dale E. Fiene		1054
7590 Dale E. Fiene 622 Gaslight Drive Algonquin, IL 60102			EXAMINER PAYNE, SHARON E	
		ART UNIT 2875	PAPER NUMBER	
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/801,173	FIENE, DALE E.	
	Examiner	Art Unit	
	Sharon E. Payne	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 January 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 33-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 39-44 is/are allowed.
- 6) Claim(s) 33-38, 45, 46, 49-55, 58-65 and 68-76 is/are rejected.
- 7) Claim(s) 47, 48, 56, 57, 66 and 67 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. The indicated allowability of claims 34-37 is withdrawn in view of the newly discovered reference(s) to an under cabinet light. Rejections based on the newly cited reference(s) follow.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 34, 36 and 37 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,814,462 in view of Ahroni (U.S. Patent 5,829,865).

Present Application	U.S. Patent 6,814,462 Fiene	Ahroni	Motivation
34	18	Positioning a channel provided in the socket assembly over the cord (Fig. 2).	It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Fiene to enable one to position the leads correctly over the cord. (See Fig. 2 of Ahroni.)
36	18	The step of orienting the socket assembly in one of four	See above

		possible orientations. (Any time you orient a socket assembly in any orientation you orient it in one of a number of possible orientations.)	
37	18	The step of piercing the insulation of the output cord with an insulation displacement connector (28, Fig. 3).	See above

4. Claim 35 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,814,462 in view of Ahroni and Yan (U.S. Patent 6,168,299).

Present Application	Fiene (US 6,814,462)	Ahroni	Yan	Official Notice	Motivation
35	18 See claim 34.		A reflector (Fig. 2)	Putting the reflector between the ballasted socket assembly and the cabinet or shelf is considered an obvious variation. Since the reflector and ballasted socket assembly	It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration

				are well known in the art, it would have been obvious to one of ordinary skill in the art to arrange the reflector between the ballasted socket assembly and the bottom of the shelf or cabinet to achieve the desired lighting	
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				effect. See MPEP 2144.04.	
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5. Claims 72, 75 and 76 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,814,462 (Fiene) in view of Nilssen (U.S. Patent 5,559,393).

Present Application	Fiene	Nilssen	Motivation
72	14	Mounting the ballasted socket assembly under a cabinet or shelf (Fig. 8).	It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Nilssen in the apparatus of Fiene to light the area under a cabinet or shelf.

75	14	The step of mounting the socket assembly in one of four possible orientations. (Any time you orient a socket assembly in any orientation you orient it in one of a number of possible orientations.)	See above.
76	14	Mounting the ballasted socket assemblies to the underside of a cabinet or shelf (Fig. 8) and passing a high-frequency output cord along the bottom of the cabinet or shelf (Fig. 8).	See above.

6. Claims 73 and 74 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,814,462 (Fiene) in view of Yan.

Present Application	Fiene	Yan		Motivation
73	14	Attaching a reflector to the ballasted socket assembly (Fig. 1).		It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Yan in the apparatus of Fiene to focus the light as desired.
74	14	A reflector (Fig. 2)	Putting the reflector between the	

			<p>ballasted socket assembly and the cabinet or shelf is considered an obvious variation. Since the reflector and ballasted socket assembly are well known in the art, it would have been obvious to one of ordinary skill in the art to arrange the reflector between the ballasted socket assembly and the bottom of the shelf or</p>	
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			cabinet to achieve the desired lighting effect. See MPEP 2144.04.	
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Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 33, 38, 45, 46, 49-52, 54, 55, 58-61, 63-65 and 68 -70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilssen in view of Ahroni.

Regarding claim 33, Nilssen discloses a high frequency power source (abstract), an interconnecting cable (CC1) and multiple luminaries (Fig. 8), the high-frequency power source being connected to and power from a standard utility power line (Fig. 8, bottom left) and having a high frequency power output (abstract), the interconnecting cable being connected to the high-frequency power output (Fig. 8), the interconnecting cable not being a track lighting system (Fig. 8). Nilssen does not disclose the interconnecting cable being supplied with no luminaries.

Ahroni discloses the interconnecting cable being supplied from a manufacturing facility with no luminaries connected thereto (Fig. 3, bottom), the system further characterized in that the system is installed by an installer (abstract—any person can be an installer), during installation, luminaries are connected to a single interconnecting cable at multiple points along the interconnecting cable (Figs. 1 and 2) using an insulation-displacement connection (Fig. 3, see tines 28), and the locations of the luminaries being determined by the installer (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Nilssen to allow someone to install the lights right on the wire as needed (Fig. 3 and abstract of Ahroni).

Concerning claim 38, Nilssen discloses a high frequency power source (abstract), an interconnecting cable (CC1) and multiple luminaries (Fig. 8). Nilssen does not disclose the cable being supplied with no luminaries.

Ahroni discloses the interconnecting cable being supplied with no luminaries connected there to (Fig. 3, bottom) and the system further characterized in that multiple luminaries can be powered from the same interconnecting cable without severing the interconnecting cable (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Nilssen

to allow someone to install the lights right on the wire as needed (Fig. 3 and abstract of Ahroni).

Regarding claims 45, 54 and 64, Nilssen discloses that the luminaries can be mounted in place prior to the insertion of the cable (Fig. 8).

Concerning claims 46, 55 and 65, Nilssen does not disclose that the interconnecting cable can be installed in place under a cabinet or shelf before the luminaries are mounted.

Ahroni discloses that the interconnecting cable can be installed in lace under the cabinet or shelf before the luminaries are mounted in place under the cabinet or shelf (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Nilssen to allow someone to install the lights right on the wire as needed (Fig. 3 and abstract of Ahroni).

Regarding claims 49 and 58, Nilssen and Ahroni do not specifically disclose the input terminals having a circular or oval cross-section.

Making the input terminals have a circular or oval cross section is considered to be an obvious variation. Since the input terminals are well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the input terminals have a circular or oval cross section for

aesthetic purposes, since changes in shape involve only routine skill in the art. See MPEP 2144.04.

Concerning claims 50, 59 and 68, Nilssen does not disclose flat input terminals. Ahroni discloses the input terminals (28) having a flat cross section (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Nilssen to allow someone to install the lights right on the wire as needed (Fig. 3 and abstract of Ahroni).

Regarding claims 51, 60 and 69, Nilssen discloses the luminaries including a ballasting circuit capable of powering at least one gas-discharge lamp (BA, Fig. 3).

Concerning claims 52, 61 and 70, Nilssen discloses the at least one gas-discharge lamp as a single-ended gas-discharge lamp (Fig. 3).

Regarding claim 63, Nilssen discloses a high frequency power source (abstract), an interconnecting cable (CC1) and multiple luminaries (Fig. 8), the high-frequency power source being connected to and power from a standard utility power line (Fig. 8, bottom left) and having a high frequency power output (abstract), the interconnecting cable being connected to the high-frequency power output (Fig. 8), the interconnecting cable not being a track lighting system (Fig. 8). Nilssen does not disclose the interconnecting cable being supplied with no luminaries.

Ahroni discloses the interconnecting cable being supplied from a manufacturing facility with no luminaries connected thereto (Fig. 3, bottom), and multiple luminaries can be powered from the same interconnecting cable without severing the interconnecting cable (Fig. 1), and during installation, luminaries are connected to a single interconnecting cable at multiple points along the interconnecting cable using an insulation-displacement connection (Figs. 1 and 3—see reference number 28).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Ahroni in the apparatus of Nilssen to allow someone to install the lights right on the wire as needed (Fig. 3 and abstract of Ahroni).

9. Claims 53, 62 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilssen in view of Ahroni as applied to claims 51, 60 and 69 and further in view of Chang et al. (U.S. Patent 6,373,725).

Regarding claims 53, 62 and 71, Nilssen and Ahroni do not disclose an arrangement capable of changing the power level. Chang et al. discloses an arrangement capable of changing the power level provided to the at least one gas-discharge lamp (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Chang et al. in the apparatus of

Nilssen and Ahroni to change the level of power to the apparatus. See the abstract of Chang et al.

Allowable Subject Matter

10. Claims 39-44 are allowed.
11. Claims 47-48, 56-57 and 66-67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. The following is a statement of reasons for the indication of allowable subject matter. The prior art fails to disclose a luminaire with the following features:
 - 1) the input terminals being located within the area of the intersection of two channels and positioned such that the first input terminal making contact with a first electrical conductor and the second imputer terminal making contact with the second electrical conductor during the installation of the luminaire no matter through which channel the electrical cord is routed as recited in claim 39;
 - 2) wherein the luminaries can be relocated along the interconnecting cable as recited in claims 47, 56 and 66; and
 - 3) wherein the luminaires can be connected to the interconnecting cable in any one of four possible orientations as recited in claims 48, 57 and 67.

Response to Arguments

13. Applicant's arguments with respect to claims 33 and 38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sep

Sharon Payne
SHARON E. PAYNE
PRIMARY EXAMINER